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## 2005 Decisions

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## Opinions of the United States Court of Appeals for the Third Circuit

10-4-2005

# Howard Hess Dental v. Dentsply Intl Inc

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PRECEDENTIAL

UNITED STATES COURT OF APPEALS  
FOR THE THIRD CIRCUIT

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No. 04-1979

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HOWARD HESS DENTAL LABORATORIES INCORPORATED;  
PHILIP GUTTIEREZ, \*d/b/a Dentures Plus, on behalf  
of themselves and all other similarly situated,  
Appellants

v.

DENTSPLY INTERNATIONAL, INC.

\*Amended per Clerk's Order dated 4/30/04

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No. 04-1980

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JERSEY DENTAL LABORATORIES, f/k/a Howard Hess Dental  
Laboratories Incorporated; PHILIP GUTTIEREZ, \*d/b/a  
Dentures Plus, on behalf of themselves and all others  
similarly situated,  
Appellants

v.

DENTSPLY INTERNATIONAL, INC.; A. LEVENTHAL & SONS, INC.;  
ACCUBITE DENTAL LAB, INC.; ADDIUM DENTAL PRODUCTS;  
ARNOLD DENTAL SUPPLY COMPANY;  
ATLANTA DENTAL SUPPLY COMPANY;  
BENCO DENTAL COMPANY; BURKHART DENTAL SUPPLY COMPANY;  
DARBY DENTAL LABORATORY SUPPLY CO., INC.; DENTAL SUPPLIES  
AND EQUIPMENT, INC.; EDENTALDIRECT.COM, INC., as successor to  
Crutcher Dental, Inc.; HENDON DENTAL SUPPLY, INC.;  
HENRY SCHEIN, INC., and its affiliates including, without  
limitation, Zahn Dental Co., Inc.; IOWA DENTAL SUPPLY CO.;  
JAHN DENTAL SUPPLY COMPANY; JB DENTAL SUPPLY CO., INC.;

JOHNSON & LUND CO., INC.; KENTUCKY DENTAL SUPPLY COMPANY, INC.  
a/k/a KDSC Liquidation Corp.; MARCUS DENTAL SUPPLY CO;  
MIDWAY DENTAL SUPPLY INC.; MOHAWK DENTAL CO., INC.; NASHVILLE  
DENTAL, INC.; NOWAK DENTAL SUPPLIES, INC.; PATTERSON DENTAL  
COMPANY, its subsidiaries, predecessors, successors, assigns,  
affiliates and related companies; PEARSON DENTAL SUPPLIES, INC.;  
RYKER DENTAL OF KENTUCKY, INC.; THOMPSON DENTAL COMPANY

\*Amended per Clerk's Order dated 4/30/04

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On Appeal from the United States District Court  
for the District of Delaware  
(D.C. Civil Action Nos. 99-cv-00255 / 01-cv-00267)  
District Judge: Honorable Sue L. Robinson

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Argued April 7, 2005

Before: BARRY, AMBRO and GREENBERG, Circuit Judges

Thomas A. Dubbs, Esquire (Argued)  
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Counsel for Appellees

**ORDER AMENDING PUBLISHED OPINION**

AMBRO, *Circuit Judge*

IT IS NOW ORDERED that the published Opinion in the above case filed September 21, 2005, be amended as follows:

On page 4, in the caption, replace

Richard A. Ripley, Esquire  
Margaret M. Zwisler, Esquire (Argued)  
Kelly A. Clement, Esquire  
Eric J. McCarthy, Esquire  
Charles R. Price, Esquire  
Howrey, Simon, Arnold & White  
1299 Pennsylvania Avenue, N.W.  
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with

Margaret M. Zwisler, Esquire (Argued)  
Eric J. McCarthy, Esquire  
Charles R. Price, Esquire  
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Richard A. Ripley, Esquire  
Bingham McCutchen LLP  
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By the Court,

/s/ Thomas L. Ambro, Circuit Judge

Dated: October 4, 2005

CMD/cc: Thomas A. Dubb, Esq.  
Richard T. Joffe, Esq.  
Margaret M. Zwisler, Esq.  
Eric J. McCarthy, Esq.  
Charles R. Price, Esq.  
Richard A. Ripley, Esq.